IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5577 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

DHANJIBHAI AMBALAL PARMAR

Versus

DISTRICT REGISTRAR

Appearance:

MR GM JOSHI for Petitioner

MR RC KODEKAR, AGP for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 21/12/2000

ORAL JUDGEMENT

In this petition under Article 226 of the Constitution, the Chairman of the ONGC Employees Co-Op. Credit & Consumers Society Ltd. has challenged the order dated 21.7.1999 passed by the District Registrar of Co-operative Societies under Section 81 of the Gujarat Co-operative Societies Act, 1961 (hereinafter referred to as "the Act").

By the impugned order, the District Registrar appointed a custodian on the ground that there were certain alleged irregularities and also on the ground that no elections were held to the managing committee of the society since 1995.

2. Mr RC Kodekar, learned AGP appearing for the District Registrar states that the custodian had taken over the charge of the society from the petitioner on 26.7.1999.

However, Mr GM Joshi, learned counsel for the petitioner states that in view of the ad-interim relief granted on 29.7.1999, the custodian handed over the charge back to the petitioner. This Court does not propose to decide this controversy in view of the course which is proposed to be adopted, more particularly when fresh elections are directed to be held.

3. At this stage, the learned counsel for the parties states that an arbitration suit is pending before the Board of Nominees which is filed by one of the members of the society for injunction against the elections and such an injunction was granted by the Board of Nominees.

4. When the District Registrar passed the impugned order dated 21.7.1999 and appointed the custodian and also required him to conduct the elections on 30.6.2000, the ad-interim relief dated 29.7.1999 was merely intended to countermand the appointment of the custodian and this Court never intended that the elections should not be held.

Since the holding of elections to the managing committee of the society would be in consonance with the letter and spirit of the Gujarat Co-operative Societies Act, this Court sees no reason why elections should be stalled.

5. In view of the above, the following order is passed :-

The impugned order dated 21.7.1999 (Annexure "C") is set aside without going into the merits of the controversy as the interim relief has been operating for the last about a year and a half and the elections are to be held within three months from today.

Notwithstanding any interim order passed by the

Board of Nominees or the Co-operative Tribunal, the District Registrar shall conduct elections to the managing committee of the ONGC Employees Co-Op. Credit & Consumers Society Ltd. as expeditiously as possible and in any case by 31.3.2001.

6. Rule is made absolute to the aforesaid extent with no order as to costs.

(M.S. Shah, J.)

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